

paid (whether the full amount specified in the lease or $\frac{1}{2}$ the amount specified in the lease pursuant to § 281.28(b) on this part) of OCS minerals produced (sold, transferred, used, or otherwise disposed of) from the leasehold.

(h) Unless stated otherwise in the lease, product valuation will be in accordance with the regulations of this chapter. The value used in the computation of royalty shall be determined by the Director. The value, for royalty purposes, shall be the gross proceeds received by the lessee for produced substances at the point the product is produced and placed in its first marketable condition, consistent with prevailing practices in the industry. In establishing the value, the Director shall consider, in this order: (1) The price received by the lessee; (2) commodity and spot market transactions; (3) any other valuation method proposed by the lessee and approved by the Director; and (4) value or cost netback. For non-arm's length transactions, the first benchmark will only be accepted if it is not less than the second benchmark.

(i) All payors must submit payments and payment information forms and maintain auditable records in accordance with the following Royalty Management regulations of this title:

Section 210.200—Required recordkeeping.

Section 210.201—Solid minerals payor information form.

Section 210.202—Report of sales and royalty remittance—solid minerals.

Section 210.203—Special forms and reports.

Section 212.200—Maintenance of and access to records.

Section 217.250—Audits.

Section 218.40—Assessments for incorrect or late reports and failure to report.

Section 218.50—Timing of payment.

Section 218.51—Method of payment.

Section 218.52—Designated payor.

Section 218.56—Definitions.

Section 218.150—Royalties, net profit shares, and rental payments.

Section 218.151—Rentals.

Section 218.155—Method of payment.

Section 218.202—Late payment or underpayment charges.

Section 241.20—Civil penalties authorized by statutes other than the Federal Oil and Gas Royalty Management Act of 1982.

§ 281.27 Annual rental.

(a) The annual lease rental shall be due and payable in accordance with the

provisions of this section. No rental shall be due or payable under a lease commencing with the first lease anniversary date following the commencement of royalty payments on leasehold production computed on the basis of the royalty rate specified in the lease except that annual rental shall be due for any year in which production from the leasehold is not subject to royalty pursuant to § 281.28.

(b) Unless otherwise specified in the leasing notice and subsequently issued lease, no annual rental payment shall be due during the first 5 years in the life of a lease.

(c) The lessee shall pay an annual rental in the amount specified in the leasing notice and subsequently issued lease not later than the last day prior to the commencement of the rental year.

(d) A rental adjustment schedule and amount may be specified in a leasing notice and subsequently issued lease when a variance is warranted by geologic, geographic, technical, or economic conditions.

§ 281.28 Royalty.

(a) The royalty due the lessor on OCS minerals produced (i.e., sold, transferred, used, or otherwise disposed of) from a lease shall be set out in a separate schedule attached to and made a part of each lease and shall be as specified in the leasing notice. The royalty due on production shall be based on a percentage of the value or amount of the OCS mineral(s) produced, a sum assessed per unit of product, or other such method as the Secretary may prescribe in the leasing notice. When the royalty specified is a sum assessed per unit of product, the amount of the royalty shall be subject to an annual adjustment based on changes in the appropriate price index, when specified in the leasing notice. When the royalty is specified as a percentage of the value or amount of the OCS minerals produced, the Secretary will notify the lessee when and where royalty is to be delivered in kind.

(b) When prescribed in the leasing notice and subsequently issued lease, royalty due on OCS minerals produced from a leasehold will be reduced for up to any 5 consecutive years, as specified